

Central Information Commission

CIC/AD/A/2011/001130

October 8, 2012

Name of the Applicant : Shri Kunal Kumar Thakur

Name of the Public Authority : Eastern Railway Employees Cooperative Bank Ltd., Kolkata

Date of Hearing: July 5, 2011

Decision Announced: July 5, 2011

The Order is being modified to the extent to correct mistakes that crept inadvertently, e.g., instead of Eastern Railway, or Eastern Railway Employees Cooperative Bank Ltd., Kolkata, some other nomenclature appeared.

Background

1. The Applicant filed an RTI Application dt.16.8.10 with the PIO & FA&CAO(W&T), Eastern Railway seeking information related to Eastern Railways Employees Cooperative Bank. The PIO replied on 24.8.10 stating that the application is not acceptable due to nonpayment of fees in proper mode. He, however, added that Eastern Railways Employees Cooperative bank Ltd. is a cooperative society registered under Multi-State cooperative Societies Act, 2002 though having its members from the Railway Employees, its functioning is completely guided by the Act and its own byelaws. The Applicant filed an appeal dt.6.10.10 with the Appellate Authority seeking the information and also enclosing the pay order for Rs.10/-. Shri Pankaj Singh, PIO vide his letter dt.8.10.10 transferred the RTI application to the Secretary, Eastern Railway Employees Cooperative Bank Ltd. The Secretary, Eastern Railway Employees Cooperative Bank Limited replied on 2.11.10 as follows:

'Eastern Railway Employees Coop Bank Ltd. is a society formed by employees of the Eastern and East Central Railway as well as employees of the society and registered under the Multi State Cooperative Societies Act, 2002 and the Society has its own bye laws framed under the Multi State Cooperative Societies Act, 2002.

As per Indian Railways Establishment Manual (IREM) Vol.II, Chapter 23, paras 2339 to 2343, the Railway Authority provides space for operating the branches of the Bank at prescribed rate, as well as provides facility of electricity, water etc. in such space which is paid by the Bank to the Railway Administration for extending cooperation by the Railway.

Formation and function of the managing Committee is as per the Bye-Laws of the society formed at par with MSCS Act, 2002 and Railway Authority has no control over the Management save and except 2 Co-opted Directors vide 41(3) of the MSCS Act, 2002.

Moreover, the Railways deduct the monthly loan and CRBD instalments of the member railway employees through salary and remits the same to the Bank as per the provisions of Sec.60 of the

MSCS Act & Rules, 2002. This cooperative bank is not a public authority because it is not substantially financed by the Govt. directly or indirectly vide sec. 2(h) of RTI Act, 2005.

Accordingly the points set out in the application for information in support of the contention of the applicant that Eastern Railway Employees Co-op Bank Ltd. is covered by RTI Act, 2005 is not at all sustainable and the contention has no basis. The RTI Act, 2005 has no manner of application in respect of a cooperative society.'

Being aggrieved with the reply, the Applicant filed a second appeal dt.2.2.11 before CIC.

Decision

2. During the hearing the Respondent submitted that CIC had in its decision in Appeal No.CIC/SM/A/2009/000492 dated 27.5.2008 held that Cooperative banks are not Public Authorities for the purpose of the RTI act. He added that there are several decisions by various High Courts also to this effect. The critical ingredient in deciding, whether a non-governmental organization like the cooperative bank is a Public Authority or not is whether it is substantially financed by the Central Government. The above mentioned Cooperative Bank is not a Public Authority as it has been set up by the employees of the Eastern Railways in their individual capacities under the Multi-State Cooperative Societies Act and that the Central Government had neither established it nor had any control over its affairs. The Respondent also contended that the Central Government had never provided any finance to this Bank either at the time of its constitution or later. According to the Appellant, however, the Bank operated from the premises of the Eastern Railways and that it served only the serving and retired employees, Hence, it is a Public Authority.
3. The undersigned, while relying on the established position of the Commission as given in decision in appeal no. CIC/SM/A/2009/000492 dated 27.5.08 (which states that the Mechanical Primary Cooperative Bank Ltd., Gorakhpur set up under the Multi-state Cooperative Societies Act is not a Public Authority), and after having ascertained that there is nothing on record in the present case to show that this Bank has received any funding, much less substantial funding from any government source, also reviewed a number of decisions by the Hon'ble Bombay High Court on this subject that such Cooperative Banks are not Public Authorities, and concluded that the Eastern Railway Employees Cooperative Bank Ltd, Kolkata is not a Public Authority. The Appellant is therefore advised to approach the Bank directly and obtain the information he requires, as this Bank is not covered by the RTI Act.
4. The appeal is accordingly disposed of.

(Annapurna Dixit)
Information Commissioner

Authenticated true copy:

(G.Subramanian)
Deputy Registrar

Cc:

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